

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:05CR333
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
TODD J. HANDY,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report ("PSR") and the Defendant's objections thereto (Addendum).¹ The government has adopted the PSR. (Filing No. 47.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant objects to the 2-level enhancement in ¶ 23 of the PSR pursuant to U.S.S.G. § 2D1.1(b)(1) for possession of a dangerous weapon during the drug trafficking crime. The objection will be heard at sentencing. The government bears the burden by a preponderance of the evidence. If the parties need more than one hour for the entire sentencing hearing they shall immediately contact Edward Champion, tel. 661-7377, and reschedule the hearing.

The Defendant's remaining objections are denied for the reasons stated by the probation officer in the Addendum to the PSR.

¹The Defendant's objections were not filed with the Court pursuant to ¶ 6 of the Order on Sentencing Schedule. Nevertheless, the objections in the Addendum will be briefly discussed.

IT IS ORDERED:

1. The Defendant's objection to ¶ 23 of the PSR will be heard at sentencing;
2. The Court's tentative findings are that the Defendant's remaining objections to the Presentence Investigation Report (PSR, Addendum) are denied;
3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
5. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 23rd day of January, 2006.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge